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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,595	12/21/2000	Brian E. Elwell	NOVIT-53078	1214

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FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES, CA 90045

EXAMINER

LA, ANH V

ART UNIT	PAPER NUMBER
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2636

DATE MAILED: 03/11/2004

b

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/745,595

Applicant(s)

ELWELL ET AL.

Examiner

Anh V La

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-61 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. The specification is objected to because it does not contain a brief description of figure 13.

2. The claims are objected to because it contains many typographical errors. In claim 6, line 1, the phrase "claim 1" should be changed to - -claim 2--. In claim 41, line 8, the phrase "the setting element" should be changed to - -a setting element--.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5, 7-9, 11-17, 21, 22, 25, 28-40, 43, 48-54, 56-58, 60-61 are rejected under 35 U.S.C. 102(e) as being anticipated by Fowler.

Regarding claims 1, 48, 50, Fowler discloses a system for sensing the occupancy of an area, adapted to activate upon sensing the occupancy of the area, and to maintain activation when sensing the occupancy of the area, comprising an occupancy sensor 100, adapted to activate upon sensing the occupancy of the area, and maintain activation when sensing the occupancy of the area, comprising an

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infrared sensor section 103, adapted to passively sense the occupancy of the area, and to activate upon sensing the occupancy of the area, and an ultrasonic sensor section 102, adapted to actively sense the occupancy of the area, and to activate upon sensing the occupancy of the area, wherein the occupancy sensor is adapted to activate when the infrared sensor section senses occupancy of the area, and to maintain activation when either the infrared sensor section or the ultrasonic sensor section senses continuing occupancy of the area (column 5, lines 10-55, col. 19, lines 15-43, col. 9, lines 1-15).

Regarding claims 2, 28, 49, 51, Fowler discloses a setting element 204 for enabling the input of a setting for the activating of the sensor and a self-adjusting element 313, 314 for enabling the self-adjusting of the activating setting for the activating of the occupancy sensor.

Regarding claims 3, 52, Fowler clearly discloses the occupancy sensor 102, 103 being adapted to activate upon sensing motion in the area.

Regarding claims 4, 38, 53, Fowler discloses an element 119, 122 for responding to motion varying from a baseline motion so as to require a constant level of such motion in order to activate the sensor.

Regarding claims 5, 39, 54, Fowler discloses a building automation system relay adapted to be connected to the occupancy sensor and a building automation system (col. 9, lines 13-15, col. 1, lines 17-41).

Regarding claims 7, 43, 56, Fowler discloses an interface 306 for enabling manual setting for activation of the sensor.

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Regarding claims 8, 57, Fowler discloses the sensor being adapted to maintain activation when both the infrared sensor section and the ultrasonic sensor section are activated (col. 17, line 45- col. 18, line 67).

Regarding claims 9, 58, Fowler clearly discloses the system to be connected to a system to be controlled thereby.

Regarding claims 14, 32, 35, Fowler discloses an element for detecting a fault in the operation and the self-adjusting element being adapted to self-adjust the settings responsive to the fault detection (abstract, col. 5, lines 10-60).

Regarding claims 11, 29, 36, 60, Fowler discloses a sensitivity setting 316, 317.

Regarding claims 12, 30, 37, 61, Fowler discloses a time delay setting 319 (col. 11, lines 25-32).

Regarding claims 13, 31, Fowler discloses the self-adjusting element 313 being adapted to self-adjust the settings responsive to real-time adjustment (col. 27, lines 45-56).

Regarding claims 15, 33, Fowler discloses the system being self-resetting (col. 10, lines 1-5).

Regarding claim 16, Fowler discloses a filtering element (col. 29, lines 17-64).

Regarding claims 17, 40, Fowler discloses a switch interface 306.

Regarding claim 21, Fowler discloses a lighting system (col. 1, lines 20-25).

Regarding claim 22, Fowler discloses a heating and air conditioning system (col. 1, lines 20-25, col. 26, lines 20-29).

Regarding claims 25, 34, Fowler discloses a zero time delay setting and an internal timing function (col. 31, lines 48-50).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 19, 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fowler.

Regarding claims 19, 44, Fowler discloses all the claimed subject matter as set forth above in the rejection of claim 7, and further discloses a toggle switch in column 24, lines 12-34. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include a push button interface in the interface of the system because it is old and well-known to use a push button to operate an interface of a system.

7. Claims 6, 18, 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fowler in view of Keeter.

Regarding claims 6, 55, Fowler discloses all the claimed subject matter as set forth above in the rejection of claim 1, and further discloses a preset time period, but

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does not disclose an alarm relay, an alarm system, the setting element comprising a switch to enable the selection of an alarm mode setting and multiple activations of the sensor. Keeter teaches the use of an alarm relay (col. 3, lines 35-65), an alarm system (abstract, figures 1-2), a setting element comprising a switch 28 to enable the selection of an alarm mode setting and multiple activations of a sensor (see figure 2). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include an alarm relay, an alarm system, the setting element comprising a switch to enable the selection of an alarm mode setting and multiple activations of the sensor to the system of Fowler as taught by Keeter for the purpose of activating an alarm system.

Regarding claim 18, Fowler discloses redundant detection testing to avoid false alarms (col. 26, lines 45-60, col. 32, lines 10-61, col. 33, lines 10-20).

8. Claims 10, 23, 24, 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fowler in view of Walden.

Regarding claims 10, 59, Fowler discloses all the claimed subject matter as set forth above in the rejection of claim 1, and further discloses a switch to enable selection of a lighting setting to prevent false activation in a power facility, but does not disclose a lighting sweep setting. Walden teaches the use of disclose a lighting sweep system. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include a lighting sweep setting to the system of Fowler as taught by Walden for the purpose of activating a lighting sweep system.

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Regarding claim 23, Fowler discloses a setting element 204 having a switch, a building automation system relay and a building automation system (col. 9, lines 13-15, col. 1, lines 17-41).

Regarding claim 24, Fowler discloses a setting element 204 having a switch, an output control, and an output control system (col. 9, lines 13-15, col. 1, lines 17-41).

9. Claims 20, 26, 27, 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fowler in view of Boulos.

Regarding claims 20, 45, Fowler discloses all the claimed subject matter as set forth above in the rejection of claim 7, and further discloses the manual activating setting 306 and the sensor being automatically deactivated after manual activation (col. 10, lines 19-23), but does not disclose a time delay setting the manual activating setting. Boulos teaches the use of a time delay setting in a manual activating setting (col. 10, lines 45-50). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include a time delay setting the manual activating setting to the system of Fowler as taught by Boulos for the purpose of automatically deactivate the sensor after manual activation following a time delay.

Regarding claims 26, 46, Fowler discloses a grace timer with a preset time grace period (col. 24, lines 45-59).

Regarding claims 27, 47, Fowler as modified by Boulos discloses all the claimed subject matter as set forth above in the rejection of claim 26, but does not disclose an

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automatic-on mode and the system being self-resetting. Boulos further teaches an automatic-on mode and the system being self-resetting (col. 10, lines 50-56). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include an automatic-on mode and the system being self-resetting to the system of Fowler as taught by Boulos for the purpose of automatically turning on the lights after manually turning off.

10. Claims 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pedtke in view of Keeter

Regarding claim 41, Pedtke discloses a system for sensing the occupancy of an area, adapted to activate upon sensing the occupancy of the area, and to maintain activation when sensing the occupancy of the area, comprising an occupancy sensor (passive infrared sensor), adapted to activate upon sensing the occupancy of the area, and maintain activation when sensing the occupancy of the area, an alarm relay 60, an alarm system, and a preset time period (abstract). Pedtke does not disclose a setting element comprising a switch and an alarm mode setting. Keeter teaches the use of a setting element comprising a switch 28 and an alarm mode setting (at 28, see figure 2). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include a setting element comprising a switch and an alarm mode setting to the system of Pedtke as taught by Keeter for the purpose of activating an alarm system.

Regarding claim 42, Pedtke clearly discloses redundant detection testing so as to avoid false alarms.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh V La whose telephone number is (703) 305-3967. The examiner can normally be reached on Mon-Fri from 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery Hofsass can be reached on (703) 305-4717. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


ANH V. LA
PRIMARY EXAMINER

Anh V La
Primary Examiner
Art Unit 2636

AI
March 08, 2004